

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

KENNETH HATLEN,

Case No. 3:12-cv-00534-MMD-WGC

Plaintiff,

ORDER

GREG COX, et al.,

Defendants.

On December 3, 2013, the Court held a hearing addressing the motions pending before it. During the hearing, the Court overruled a number of Plaintiff Kenneth Hatlen's objections to Magistrate Judge Cobb's orders. (See dkt. no. 133.) The Court also addressed Mr. Hatlen's complaints of judicial misconduct against Judge Cobb, advising Mr. Hatlen that they were not properly raised and that such complaints should be directed to the Chief Judge. On December 9, 2013, Plaintiff Kenneth Hatlen filed "Objection to Overrulings; Judicial Misconduct Violations" (dkt. no. 139), in which Mr. Hatlen raises concerns about the judicial conduct in his case.

The Court seeks to correct the record regarding the process by which Mr. Hatlen may raise complaints of judicial misconduct. All complaints of judicial misconduct must be filed with the Circuit Clerk in the jurisdiction in which the subject judge holds office, in this case with the Ninth Circuit Clerk. The Rules for Judicial Conduct and Judicial Disability Proceedings are available on the Ninth Circuit website. Since Mr. Hatlen is in custody, the Court attaches to this order a complaint form and Guidelines for Judicial

1 Misconduct or Disability Complaints for his easy reference. Mr. Hatlen will need to utilize
2 the complaint process established by the Ninth Circuit to raise his complaint.

3 It is therefore ordered that Plaintiff's "Objection to Overrulings; Judicial
4 Misconduct Violations" is overruled.

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6 DATED THIS 17th day of December 2013.

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MIRANDA M. DU
UNITED STATES DISTRICT JUDGE

Judicial Council of the Ninth Circuit

COMPLAINT OF JUDICIAL MISCONDUCT OR DISABILITY

To begin the complaint process, complete this form and prepare the brief statement of facts described in item 5 (below). The RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS, adopted by the Judicial Conference of the United States, contain information on what to include in a complaint (Rule 6), where to file a complaint (Rule 7), and other important matters. The Ninth Circuit Judicial Council also adopted local misconduct rules. The rules are available in federal court clerks' offices, on individual federal courts' Web sites, and on www.uscourts.gov, and www.ce9.uscourts.gov/misconduct/judicial_misconduct.html.

Your complaint (this form and the statement of facts) should be typewritten and must be legible. Under the Ninth Circuit's local misconduct rules, you are required to file five copies of your misconduct complaint and exhibits, plus one copy for each additional judge if more than one subject judge is named in your complaint. Enclose your complaint in an envelope marked "COMPLAINT OF MISCONDUCT" or "COMPLAINT OF DISABILITY" and submit it to the appropriate clerk of court. **Do not put the name of any judge on the envelope.**

1. Name of Complainant: _____

Contact Address: _____

Daytime telephone: (____) _____

2. Name(s) of Judge(s): _____

Court: _____

3. Does this complaint concern the behavior of the judge(s) in a particular lawsuit or lawsuits?

[] Yes [] No

If "yes," give the following information about each lawsuit:

Court: _____

Case Number: _____

Docket number of any appeal to the _____ Circuit: _____

Are (were) you a party or lawyer in the lawsuit?

[] Party [] Lawyer [] Neither

If you are (were) a party and have (had) a lawyer, give the lawyer's name, address, and telephone number:

4. Have you filed any lawsuits against the judge?

Yes No

If "yes," give the following information about each such lawsuit:

Court: _____

Case Number: _____

Present status of lawsuit: _____

Name, address, and telephone number of your lawyer for the lawsuit against the judge:

Court to which any appeal has been taken in the lawsuit against the judge:

Docket number of the appeal: _____

Present status of the appeal: _____

5. **Brief Statement of Facts.** Attach a brief statement of the specific facts on which the claim of judicial misconduct or disability is based. Include what happened, when and where it happened, and any information that would help an investigator check the facts. If the complaint alleges judicial disability, also include any additional facts that form the basis of that allegation. Local Rule 6.1(b) provides that your statement of facts must not be longer than five pages (five sides), or 1,200 words, whichever is less.

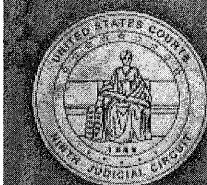
You must provide objectively verifiable proof such as the names of witnesses or recorded documents or transcripts to support your allegations. Adverse rulings do not support misconduct allegations, as the appropriate forum for an argument that a judge erred is the appellate court. Thus, you need not include copies of your filings in the underlying case or the judge's orders because even if a review of those documents is necessary, the documents are accessible via PACER. Excess or irrelevant documentation will be returned to the complainant.

6. Acknowledgment, declaration and signature:

In the space provided below, please write the following statement: "I understand that even if I successfully prove that the judge engaged in misconduct or is disabled, this procedure cannot change the outcome of the underlying case." (If this statement is not written, your complaint will not be processed and will be returned to you.)

I declare under penalty of perjury that the statements made in this complaint are true and correct to the best of my knowledge.

(Signature) _____ (Date) _____



UNITED STATES COURTS for the NINTH CIRCUIT

Chief Judge Alex Kozinski

Chair A. Catherine Caffey, Circuit & Court of Appeals Executive

COURT OF APPEALS

DISTRICT &
BANKRUPTCY COURTSJUDICIAL COUNCIL
& CONFERENCE

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Judges	Judicial Misconduct or Disability Complaint Form	Judicial Misconduct or Disability Complaint Rules	Orders
Guidelines for Judicial Misconduct or Disability Complaints			
Congress has created a procedure that permits any person to file a complaint in the courts about the behavior of federal judges—but not about the decisions federal judges make in deciding cases. Above is a link to the Judicial Conference of the United States' Judicial-Conduct Rules that explain what may be complained about, who may be complained about, where to file a complaint, and how the complaint will be processed. You must comply with these rules, or we may reject your complaint without considering your arguments.			
Almost all complaints in recent years have been dismissed because they do not follow the law about such complaints. The law says that complaints about judges' decisions and complaints with no evidence to support them must be dismissed. If you are a litigant in a case and believe the judge made a wrong decision—even a very wrong decision—you may not use this procedure to complain about the decision. An attorney can explain the rights you have as a litigant to seek review of a judicial decision.			
Please note the following to avoid the rejection or summary dismissal of your complaint:			
<ul style="list-style-type: none"> You must provide a certain number of copies with your complaint and with your petition for review. If your complaint is about a single judge, you must file five copies of (1) the complaint form, (2) the statement of facts, and (3) any documents submitted. If the complaint is about more than one judge, you must provide one extra copy for each additional judge. Ninth Circuit Local Rule 6.1(e). With a petition for review, you must file an original and fifteen copies of the petition, along with ten copies of the original complaint. Ninth Circuit Local Rule 18.1(b) You must either use the Ninth Circuit complaint form [link above], or shall identify all subject judge(s) on the first page of your complaint. Ninth Circuit Local Rule 6.1(a) You must submit a statement of facts in support of your claims that is no more five pages (five sides), or 1,200 words, whichever is less, unless the Chief Judge grants permission for additional pages. You must submit your complaint on standard 8.5x11 size paper. Ninth Circuit Local Rule 6.1(b) You must write out the following acknowledgment on your complaint form or on the first page of your complaint: "I understand that even if I successfully prove that the judge engaged in misconduct or is disabled, this procedure cannot change the outcome of the underlying case." If you do not make this acknowledgment, your complaint will be returned to you. You must provide concrete proof to support your claims of misconduct. For example, we will dismiss your complaint if you try to argue that a judge was biased or disabled, but the only evidence you provide is the ruling against you or your guess about what went on in the judge's mind. No. 08-90172 (In re Complaint of Judicial Misconduct, 569 F.3d 1093, 1093 (9th Cir. Jud. Council 2009) You may not request that the Chief Judge or Judicial Council take action in an underlying case. The Judicial Council only has power over administrative matters and is not a court. For example, you cannot use this misconduct procedure to request that the Chief Judge or the Judicial Council vacate an underlying order, force a judge to recuse himself, award damages, or grant any kind of relief that you would ask for from a court. No. 08-90066+ (In re Complaint of Judicial Misconduct, 567 F.3d 429 (9th Cir. Jud. Council 2009) Just because you file a misconduct complaint, a judge need not recuse or stay your case, nor will a new judge be assigned to your underlying case. No. 08-90026 (In re Complaint of Judicial Misconduct, 583 F.3d 599 (9th Cir. Jud. Council 2009) You can only file a misconduct complaint against federal judges. You cannot use this procedure to complain about court staff, opposing parties or opposing counsel. No. 08-90066+ (In re Complaint of Judicial Misconduct, 567 F.3d 429 (9th Cir. Jud. Council 2009) While you should describe your complaint as best as you can, there is no need to use 			



abusive language. We review all complaints carefully, so do not feel that your complaint must stand out to get a close look. All do. Using abusive language simply risks that we may restrict your ability to file further complaints. No. 08-90149+ (In re Complaint of Judicial Misconduct, 583 F.3d 599 (9th Cir. Jud. Council 2009)

- You may be restricted from filing further misconduct complaints if you abuse this procedure. No. 07-89142 (In re Complaint of Judicial Misconduct, 552 F.3d 1146 (9th Cir. Jud. Council 2009))

Please note that orders resolving misconduct complaints will refer to all judges with a male pronoun, regardless of gender, to preserve anonymity.